

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of

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Year 2000 Biennial Regulatory Review  
- Amendment of Part 22 of the Commission's  
Rules to Modify or Eliminate Outdated Rules  
Affecting the Cellular Radiotelephone Service  
and other Commercial Mobile Radio Services

WT Docket No. 01-108

**COMMENTS OF THE RURAL CELLULAR ASSOCIATION**

The Rural Cellular Association ("RCA"),<sup>1</sup> by counsel, hereby responds to the Commission's invitation to comment on proposed modifications to certain regulations contained in Part 22 of its Rules.<sup>2</sup> Although RCA generally commends the effort to eliminate unnecessary or counter productive cellular service rules, the requirement that all cellular carriers provide analog service is not obsolete, but remains vibrant and necessary. The continued existence and

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<sup>1</sup> RCA is an association representing the interests of small and rural wireless licensees providing commercial services to subscribers throughout the nation. Its member companies provide service in more than 135 rural and small metropolitan markets where approximately 14.6 million people reside. Formed in 1993 initially to address the distinctive issues facing rural cellular service providers, the membership of RCA is concerned with advancing policies that foster the implementation of wireless services in the nation's rural and smaller market areas.

<sup>2</sup> *In the Matter of Year 2000 Biennial Regulatory Review - Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and other Commercial Mobile Radio Services: Notice of Proposed Rulemaking*, WT Docket No. 01-108, FCC 01-153 (rel. May 17, 2001) ("Notice").

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enforcement of this rule is essential in promoting nationwide, ubiquitous roaming and in preventing larger carriers from obtaining disproportionate market power.

**I. Elimination of the Rule Requiring Cellular Carriers to Provide Analog Service Would Destroy “Seamless” Roaming**

**A. The Communications Act Requires Continuing Effort to Foster Ubiquitous Nationwide Wireless Service**

The Communications Act of 1934, as amended, has as its main purpose, to “make available, so far as possible, to all the people of the United States . . . a rapid, efficient, Nationwide, and world-wide wire and radio communication service . . . .”<sup>3</sup> In the context of wireless voice telecommunications, the availability of roaming has been critical to advancing this goal of nationwide ubiquitous service because it provides a seamless nationwide “network of networks.”<sup>4</sup> This nationwide “network of networks” would not have become a reality, however, had it not been for the Commission’s initial requirement that all cellular providers utilize a uniform nationwide technological compatibility standard, specifically the Advanced Mobile Phone Service (“AMPS”) analog cellular compatibility standard.<sup>5</sup> The adoption of a uniform

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<sup>3</sup> 47 U.S.C. § 151.

<sup>4</sup> See *In the Matter of Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services: Second Report and Order and Third Notice of Proposed Rulemaking*, 11 FCC Rcd 9462, 9464, 9467 (1996) (“[W]e conclude that the availability of roaming on broadband wireless networks is important to the development of nationwide, ubiquitous, and competitive wireless voice telecommunications . . .”). See also *Id.* at 9467 (concluding that roaming is a common carrier service because it “gives end users access to a foreign network in order to communicate messages of their own choosing”).

<sup>5</sup> See Notice at 4.

analog standard allowed subscribers of a cellular provider to use their existing terminal equipment on the network of another cellular provider anywhere service was provided in the country and facilitated competition by “eliminating the need for cellular mobile telephone users to acquire a different type of terminal equipment in order to switch between two competing carriers in their home market.”<sup>6</sup> The maintenance of this standard ensures nationwide access to wireless service; its abandonment would lead to chaos in the provision and availability of mobile communications.

**B. The Analog Standard Continues To Be the Backbone of Ubiquitous Nationwide Roaming**

As cellular carriers have migrated to various digital technologies and as digital PCS systems have been deployed, the analog standard has continued to be the only nationwide uniform technical standard. As such, it has become a universal default standard when subscribers roam on networks that are incompatible with their equipment. Thus, most subscribers with “dual mode” phones depend heavily upon the existence of analog service when they roam. Even customers who subscribe to a “nationwide” carrier likely require the use of analog technology when they roam as no one carrier provides service in every market and, to date, no one digital technology has been deployed uniformly.

In addition, a substantial number of subscribers with analog-only phones rely upon the ubiquitous analog network to use their wireless phone outside of their home service area. According to the Notice, at the end of 1999, there were approximately 41.9 million analog

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<sup>6</sup> *Id.* at 4-5.

subscribers nationwide or 49 percent of the total number of mobile subscribers at that time.<sup>7</sup> The recently released *Sixth Annual CMRS Competition Report* shows that at the end of 2000, the number of analog subscribers remains above 40 million.<sup>8</sup>

Accordingly, elimination of the requirement to maintain analog service by cellular systems would result in the inability of enormous numbers of wireless subscribers to roam in many markets due to the incompatibility of their phones with the digital networks. The abandonment of these subscribers eliminates nationwide seamless roaming. This result is contrary to law and established principles of public policy.

The diminution of seamless roaming has already begun to occur, and its effects are corrosive. Large cellular carriers seeking more efficient spectrum use have already begun to reduce the number of analog channels such that they provide only the minimum analog service necessary to comply with the Commission's Rules. The decreased capacity makes it more difficult for analog subscribers to both send and receive calls when they roam on these systems.

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<sup>7</sup> See Notice citing *Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, FCC 00-289, *Fifth Report*, 15 FCC Rcd 17,660 (rel. Aug. 18, 2000) ("*Fifth Annual CMRS Competition Report*"). According to the *Fifth Annual CMRS Report*, at the end of 1999, the total number of mobile telephone subscribers had reached 86.0 million with digital subscribers making up 51 percent of the industry total. *Id.* at 17,663, 17,665.

<sup>8</sup> See *FCC Adopts Annual Report on State of Competition in the Wireless Industry*, News Release (June 20, 2001) (showing that at the end of 2000, the total number of mobile telephone subscribers had reached 109.5 million and that digital customers comprised 67.9 million (62 percent) of that total). The remaining 41.6 million are primarily analog customers. See also *Fifth Annual CMRS Competition Report* at 17730 noting that analog subscribership declined "slightly" in 1999 from 1998 and that the decline was "primarily due to Nextel's migration of its subscribers to digital systems in the 800 band."

For many RCA members, a large and constant percentage of customer complaints is based upon analog subscribers' inability to get an open channel when they were roaming. According to one RCA member, "In certain busy metropolitan markets, especially in South Florida, the lack of sufficient analog channels has severely impacted our customers, even those with dual mode phones (analog/TDMA)." Another member notes that the major difficulty its analog customers have when roaming is the receipt of "fast busies," indications that no channels are available. Thus, even with the rule in place, ubiquitous roaming is today in jeopardy. Rather than elimination of the analog standard, the public interest would be better served by enforcement of a meaningful level of analog channel availability.

## **II. Elimination of the Rule Requiring Cellular Carriers to Provide Analog Service Would Hinder Competition**

### **A. Rural Carriers Offering Analog Service Would be Placed at a Competitive Disadvantage**

If the Commission decides to eliminate the requirement for cellular carriers to provide analog service, rural carriers offering analog service would be faced with one of two choices: an expensive and otherwise unnecessary migration of subscribers to digital to maintain nationwide roaming, or affording very limited roaming opportunities for subscribers. Both of these options would place the rural carriers at an unfair competitive disadvantage.

#### **1. Rural Carriers that Migrate Their Subscribers to Digital Would Incur Unexpected Costs**

In its Notice, the Commission recognized that rural customers are more likely to

subscribe to analog cellular service than other types of consumers.<sup>9</sup> This is due in part to the fact that many rural carriers have not chosen to convert to digital systems because of the additional cell sites that must be built to provide the same level of service. In many rural areas, analog technology that supports three watt phones is better suited for serving the sparsely populated territories. To convert to a digital technology that supports lower wattage phones would necessitate construction of several additional cell sites to maintain the same coverage. According to one RCA member, these “fill-in” sites take years to construct and require capital expenditures that must be planned for well in advance of the construction phase. Thus, for many rural carriers migrating to a digital technology is not economically feasible.

An RCA member survey revealed that even where rural carriers that are in the process of deploying digital technology, their subscriber base remains predominately analog for many years. This phenomenon occurs for several reasons. Rural markets typically have a lower rate of activations than urban markets due to the slower population growth, and a lower rate of churn due to the lower number of competing wireless providers. Moreover, there exists no strong demand for the additional services offered by digital equipment. Accordingly, to satisfy the needs of subscribers that would require digital phones to roam were the Commission to eliminate its analog rule, a rural carrier might be forced to provide new digital equipment to its current customers at significantly reduced prices, possibly even for free, to maintain customer satisfaction. This costly and artificial response distorts the market and may jeopardize service

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<sup>9</sup> See Notice at 12.

availability generally.<sup>10</sup>

Unexpected and unnecessary conversion costs also place the rural carrier at a competitive disadvantage. Contrary to the experience of rural carriers, larger carriers with an in-market demand for digital have been incorporating the conversion into their business plans and budgets for years. Any immediate or short-term abandonment of the AMPS standard will destabilize the competitive markets by forcing uneconomic costs on rural carriers.

## **2. Elimination of Roaming Capability is Not an Acceptable Option**

Carriers that are not economically able to provide their subscribers with phones that are compatible with digital networks would be competitively devastated if the Commission eliminated its analog standard. Subscribers in rural areas travel frequently to the larger metropolitan areas in adjacent markets. The inability of rural carriers to provide roaming capabilities would drive many of these subscribers to seek a digital provider as their primary carrier. According to one RCA member, "Our adjacent MSA is where a lot of our customers roam and we would lose many of them if they could not get analog service." Another RCA member states that the inability of its customers to roam would "be devastating . . . Our

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<sup>10</sup> Because Commission rules require only that PCS A and B Block licensees make their services available to one-third of the population in their service area within five years and two-thirds of the population within ten years, it is very likely that many BTAs may never be served by the A and B Block licensees. At the close of the five-year build-out time period, approximately only 14 percent of the BTAs within the A and B Block license areas were being served according to the Commission's build-out schedule which is found on its web page at [www.fcc.gov/wtb/pcs](http://www.fcc.gov/wtb/pcs). The schedule lists each A or B Block licensee, the technology that the licensee has chosen and indicates on a BTA-basis, whether service is available and operational. As of February 2001, of the 2811 full, partitioned or disaggregated BTAs shown, only 381 were reported as being on line.

customers roam to [adjacent] markets on a daily basis because of the many goods and services that are not available in our rural communities.”

**B. Rural Carriers Offering Dual Mode Phones Would be Placed at a Competitive Disadvantage**

Even the subscribers of rural carriers that have digital systems may be disadvantaged if the Commission eliminates its analog requirement because they will not be able to roam on digital systems that are incompatible with the home system. With various incompatible digital systems, analog has served as the default system. One RCA member who will begin offering GSM service within the next few months stated that “during these early stages of the business, the ability of our customers to roam will be critical.” Roaming in non-GSM areas will require the availability of the analog default technology. Another RCA member noted that it chose a CDMA technology, but many of its customers travel to Miami, Daytona and Orlando, Florida which have only TDMA providers. Thus, many of its customers will be unable to roam when they travel to these cities if the analog standard is abandoned.

**C. Absent a Default Standard, Technology “Choice” Is, In Fact, Dictated**

Where no default standard exists, smaller carriers are the captives of large carriers when individual carriers choose technology.<sup>11</sup> If a small carrier chooses a particular digital technology to correspond with its predominant large carrier roaming partner, and that roaming partner subsequently changes its technology, the small carrier may be forced to either change its

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<sup>11</sup> See Notice at 6-7 (Commission tentatively concluding to delete current Section 22.901(d) which addresses analog technology and adding language that would allow each cellular system to “incorporate any technology that meets all applicable technical requirements in this part”).



technology or inform its customers that they cannot roam in that market. This initial choice of digital technology may itself prove a conundrum in a rural market surrounded by different technologies. With the advent of 3G, large carriers wield significant strong market power since they would be able to dictate to small carriers that they must implement a specific technology or lose the ability to roam. The Commission-mandated analog standard is the only way to ensure that large carriers do not exercise undue influence over a smaller carrier's technology choice.<sup>12</sup>

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<sup>12</sup> To the extent that the Commission considers phasing out the analog standard, RCA urges the Commission to maintain and fully enforce the standard for a significant period, in no case less than five years.

### III. Conclusion

In establishing its Rules governing cellular service, the Commission fulfilled its statutory mandate to foster ubiquitous nationwide wireless service by requiring all cellular carriers to implement a uniform nationwide standard. The maintenance of the analog standard has allowed the deployment of diverse wireless technologies without compromising the universal default technology for all carriers. The analog standard serves as a backbone for the “network of networks” and, for many rural subscribers, the only means of accessing foreign systems.

Elimination of this analog requirement would destroy seamless roaming for millions of Americans and severely disadvantage small and rural carriers. In the words of Commissioner Tristani, “[i]t is our moral duty and statutory obligation to ensure access to the communications revolution; it *is* the public interest.”<sup>13</sup>

Respectfully submitted,

RURAL CELLULAR ASSOCIATION

By: 

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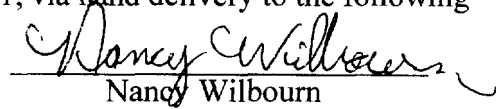
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<sup>13</sup> Notice at 48, Separate Statement of Commissioner Gloria Tristani.

**CERTIFICATE OF SERVICE**

I, Nancy Wilbourn, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing Comments of the Rural Cellular Association was served on this 2<sup>nd</sup> day of July 2001, via hand delivery to the following parties:

  
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